



Clean Water Act Section 404 (b)(1) Alternatives Analysis Information Study
Panoche Valley Solar Energy Project

APPENDIX B
Photographs



Photo 1. View of the PVS Project Action Area looking west. Note the numerous transmission towers



Photo 2. View of the PVS Project Action Area and VFCL looking north. Note the cattle and numerous transmission towers.



Photo 3. View of the PVS Project Action Area and VFCL looking north northwest. Note the wash habitat in the VFCL.



Photo 4. View of typical wash habitat within the VFCL looking west.



Clean Water Act Section 404 (b)(1) Alternatives Analysis Information Study
Panoche Valley Solar Energy Project

APPENDIX C
Correspondence

Hollister Fire Department Correspondence



HOLLISTER FIRE DEPARTMENT

Firehouse 1 110 Fifth Street • Hollister, CA 95023-3926
Headquarters (831) 636-4325 4325 • Fax (831) 636-4329

October 17, 2013

Eric Cherniss
PV2 Energy, LLC
431 Burgess Dr., 2nd Floor
Menlo Park, CA 94025

San Benito County Fire Department reviewed requirements for emergency access/egress to the project area. During our conversation we discussed the bulleted points below to which I have made adjustments:

- The fire department requires a contiguous emergency access/egress road that surrounds the entire perimeter of the project area.
- **Means of emergency access and egress from various points on the** perimeter roads are required in the event of an emergency
- Emergency access/egress roads must be designed and maintained to support the imposed loads of fire apparatus of up to 30,000 lbs and shall be surfaced so as to provide all-weather driving capabilities
- Emergency access/egress roads shall support a 15 foot wide fire truck
- Pullouts are required every 2,000 -5,000 feet along the perimeter road to allow for a fire truck to pass another vehicle if needed
- Perimeter roads must contain a sufficient turning radius to allow a fire truck with a length of 31 feet to make the turn
- No overhead restrictions are allowed on emergency access/egress roads that are lower than 12 feet due to the height of the fire trucks

Thank you,

Chief O'Connor



HOLLISTER FIRE DEPARTMENT



Firehouse 1
Head Quarters

110 Fifth Street • Hollister, CA 95023-3926
(831) 636-4325 • Fax (831) 636-4329

October 2, 2014

Jeffery R. Single, Ph.D.
Regional Manager, Central Region
California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710

Subject: Fire Code Requirements and Access to the Proposed Panoche Valley Solar Farm

Dear Mr. Single,

Thank you for your letter dated September 22, 2014 regarding the fire access design on the proposed Panoche Valley Solar Project. As a result of your letter, which repeats our previous discussion while visiting the site on July 9, 2014 with David Hacker of Department of Fish and Wildlife, we once again considered your alternative fire access route. Our office has again determined that your suggested redesign of fire access roads does not provide a sufficient ingress and egress points to ensure the safety of my crews, project personnel, or the public at large, in the event that a fire starts on site or migrates to site from an off-site location. Please refer to our July 14, 2014 addressed to David Hacker that sets forth additional points that we considered before reaching our conclusion.

Therefore and while I appreciate the Department's efforts in preparing and explaining its proposed alternative design, as the official charged with the administration, interpretation, and enforcement of County and State Fire Code and based on consultation with my team, the Hollister/San Benito County Fire Department is requiring that the project proponent construct the fire access roads and related bridge crossings as currently designed and discussed during our recent site visit.

Sincerely,

A handwritten signature in blue ink, appearing to read "John O'Connor".

Chief O'Connor

Firehouse 2 1000 Union Road
Hollister, CA 95023
(831) 636-4141

Firehouse 3 30 Airport Dr.
Hollister, CA 95023
(831) 636-4346

Firehouse 4 24 Polk Street
San Juan Bautista, CA 95045
(831) 623-4513



HOLLISTER FIRE DEPARTMENT



Firehouse 1
Head Quarters

110 Fifth Street • Hollister, CA 95023-3926
(831) 636-4325 • Fax (831) 636-4329

cc: David Hacker, California Department of Fish and Wildlife
david.hacker@wildlife.ca.gov

Julie Vance, California Department of Fish and Wildlife
julie.vance@wildlife.ca.gov

Katerina Galacatos, United States Army Corps of Engineers
katerina.Galacatos@usace.army.mil

Byron Turner, County of San Benito Planning Department
btuner@cosb.us

Firehouse 2 1000 Union Road
Hollister, CA 95023
(831) 636-4141

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HOLLISTER FIRE DEPARTMENT

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August 27, 2015

Eric Cherniss
John Pimentel
Panoche Valley Solar LLC
845 Oak Grove Avenue, Suite 202
Menlo Park, California 94025

Panoche Valley Solar Farm

Dear Mr. Cherniss and Mr. Pimentel:

I would like to thank you for meeting with me on August 12, 2015 to brief me on the Panoche Solar Project, and to discuss emergency ingress and egress to the Project site and associated environmental concerns. We are an all-risk fire department, therefore our concerns involve not only fire prevention and fire response, but also hazardous material releases, vehicle accidents, medical aid requests and specialized rescue. We must therefore ensure we have adequate access to and throughout the Project site, all year around and under all conditions.

I have reviewed the current Project design, including its design of the perimeter road, and ingress and egress points from that perimeter road. I have also reviewed the decisions and related correspondence prepared by my predecessors (Battalion Chief Avila, and Chief O'Connor) on that topic. I also reviewed input previously received from the California Department of Fish and Wildlife, and considered carefully the most recent views of the Department regarding the proposed bridge crossing of Panoche Creek which you described to me in detail during our meeting. Finally, I conducted a comprehensive site tour several days after our meeting, so that I could assess the situation on the ground.

I agree completely with my predecessors about the absolute need for a continuous perimeter road around the Project, the necessary specifications for that road, and the need for multiple ingress and egress points at a variety of locations around the Project. All else being equal, I would strongly prefer the current Project design not be changed insofar as emergency access is concerned. At the same time, however, I am sensitive to the specific concerns raised by the Department with respect to the bridge over Panoche Creek. Knowing that you have worked very hard to address such concerns throughout the development of the Project design, I felt obligated to take a fresh look at the whole emergency access design, including the proposed Panoche Creek bridge.

Fire Station 2 1000 Union Road
Hollister, CA 95023
(831) 636-4141

Fire Station 3
Hollister, CA 95023

Fire Station 4 24 Polk Street
San Juan Bautista, CA 95045
(831) 623-4513



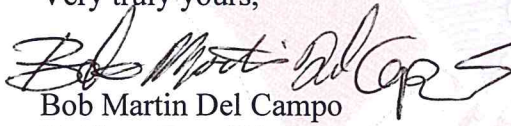
HOLLISTER FIRE DEPARTMENT

Fire Station 1 110 Fifth Street • Hollister, CA 95023-3926
Headquarters (831) 636-4325 • Fax (831) 636-4329

Based on my review, I would strongly prefer from an emergency response standpoint to keep the proposed Panoche Creek bridge, as designed. However, eliminating the Panoche Creek bridge is acceptable, under two conditions. First, all of the other Project emergency access elements in the current Project design must be retained and be constructed as currently designed. This includes constructing the perimeter road (including the bridge crossing over Las Aguilas Creek on the west side of the Project and the crossings over unnamed drainages on the east side of the Project site) to meet All Weather standards, meaning that it is capable of carrying a 42 ton loading or equivalent during and after a 10 year storm with no significant damage to the road. Second, to compensate for the reduction in emergency response capabilities caused by the loss of the Panoche Creek bridge, emergency access areas must be established on the Project. Those emergency access areas must be included in the Project's Emergency Response Plans/Emergency Evacuation Plans(which Plans are required by the Project mitigation measures imposed by the County.) While eliminating the Panoche Creek Bridge would compromise Fire Department response times to, and egress from, the west and southwest portions of the Project site, the combination of existing road access through the south-central portion of the Project (via Little Panoche Road) and pre-defined emergency access areas is sufficient under these circumstances.

Thank you for working with the Hollister Fire Department to ensure the safety of your project and of those in the Panoche Valley.

Very truly yours,


Bob Martin Del Campo
Hollister Fire Chief

Fire Station 2 1000 Union Road
Hollister, CA 95023
(831) 636-4141

Fire Station 3
Hollister, CA 95023

Fire Station 4 24 Polk Street
San Juan Bautista, CA 95045
(831) 623-4513

Westlands Correspondence



January 27, 2015

Westside Holdings, LLC
4125 W. Noble Ave., Suite 310
Visalia, CA 93277

Westlands Water District Office
3130 N. Fresno Street
P.O. Box 6056
Fresno, CA 93703-6056

Re: Westlands Solar Park Competitive Renewable Energy Zone (CREZ) – Property Inquiry

Dear Sir or Madam:

On behalf of Panoche Valley Solar LLC (PVS) please accept this letter requesting information regarding the availability of an approximately 2,500-acre parcel of land located within the proposed 24,000 acre Westlands Solar Park CREZ that is suitable for construction of a 247 megawatt (MW) solar electrical generating facility.

We are requesting information on specific 2,500-acre parcels that would meet the following minimum criteria:

1. Available for immediate purchase or long-term lease within Westlands Solar Park;
2. Within 2,000-feet of an existing double circuit 230 kilovolt (kV) transmission line with sufficient capacity to support 247 MW of solar generation
3. Capable of facilitating interconnection to PG&E's existing electrical system before the year 2020.
4. Completion of required local, state, and federal permitting (including CEQA compliance) to allow for a start of construction by 2018. We understand that a Notice of Preparation of a draft Environmental Impact Report (EIR) was issued in April 2013, yet a draft EIR has not yet been issued for public comment. Please provide an update on the anticipated issuance date of a Final EIR.

We appreciate your attention to this matter. Please feel free to contact me at 858-320-2941 with any questions or comments.

Sincerely,

A handwritten signature in black ink, reading "Jennifer L. Kaminsky". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jennifer L. Kaminsky
Project Manager



January 27, 2015

Page 2

cc: Eric Cherniss, Panoche Valley Solar LLC
Trisha Elizondo, Energy Renewal Partners

U.S. Postal Service™ **#80258**
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage	\$	\$0.49
Certified Fee	\$	\$1.30
Return Receipt Fee (Endorsement Required)	\$	\$2.70
Restricted Delivery Fee (Endorsement Required)	\$	\$0.00
Total Postage & Fees	\$	\$4.49

Sent To Westlands Water Dist. Office
 Street Apt. No., or PO Box No. P.O. Box 6056
 City, State, ZIP+4 Fresno, CA 93703-6056
 PS Form 3811, August 2013 See Reverse for Instructions

Postage	\$	\$0.49
Certified Fee	\$	\$1.30
Return Receipt Fee (Endorsement Required)	\$	\$2.70
Restricted Delivery Fee (Endorsement Required)	\$	\$0.00
Total Postage & Fees	\$	\$4.49

Sent To Westside Holdings, LLC
 Street Apt. No., or PO Box No. 4125 W. Noble Ave., Suite 310
 City, State, ZIP+4 Visalia, CA 93277
 PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

1. Article Addressed to: **#80258**
Westlands Water Dist. Office
P.O. Box 6056
Fresno, CA 93703-6056

2. Article Number (Transfer from service label) 7013 2250 0001 3937 4256

3. Service Type
☒ Certified Mail®
☐ Registered
☐ Insured Mail
☐ Priority Mail Express™
☒ Return Receipt for Merchandise
☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

COMPLETE THIS SECTION ON DELIVERY

A. Signature [Signature]
 B. Received by (Printed Name) [Signature]
 C. Date of Delivery 7/10
 D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below:

SENDER: COMPLETE THIS SECTION

1. Article Addressed to: **#80258**
Westside Holdings, LLC
4125 W. Noble Ave., Suite 310
Visalia, CA 93277

2. Article Number (Transfer from service label) 7013 2250 0001 3937 4249

3. Service Type
☒ Certified Mail®
☐ Registered
☐ Insured Mail
☐ Priority Mail Express™
☒ Return Receipt for Merchandise
☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

COMPLETE THIS SECTION ON DELIVERY

A. Signature [Signature]
 B. Received by (Printed Name) [Signature]
 C. Date of Delivery 7-7-15
 D. Is delivery address different from item 1? ☐ Yes ☒ No
 If YES, enter delivery address below:

1. Article Addressed to: **#80258**
Westside Holdings, LLC
4125 W. Noble Ave., Suite 310
Visalia, CA 93277

3. Service Type
☒ Certified Mail®
☐ Registered
☐ Insured Mail
☐ Priority Mail Express™
☒ Return Receipt for Merchandise
☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

USACE Preliminary Jurisdictional Delineation Correspondence



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

inREPLY TO
ATTENTION OF

Regulatory Division

OCT 18 2010

Subject: File No. 2009-00443S

Mr. Kevin Lincoln
Power Engineers, Inc.
P.O. Box 1066
3940 Glenbrook Drive
Hailey, Idaho 83333

Dear Mr. Lincoln:

This letter is written in regard to our February 5, 2010, preliminary jurisdictional determination for the Panoche Valley Solar Farm project site. This project site is located approximately thirty miles south of Los Banos, in San Benito County, California. The project site encompasses approximately 4,900 acres in Sections 3-5, 8-11, and 13-16, of Township 14S, Range 10E and Sections 18-19 of Township 15S, 11E of the Cerro Colorado, Llanda, Mercy Hot Springs, and Panoche USGS 7.5 minute topographic quadrangle maps, respectively.

A preliminary jurisdictional determination was issued for this project site on February 5, 2010, pursuant to the Regulatory Guidance Letter, RGL 08-02. The District Engineer retains the discretion to use an approved jurisdictional determination in any other circumstance where he determines that it is appropriate given the facts of the particular case. The San Francisco District has re-examined the conditions of the project site and in particular the surface hydrologic connection between the project site and a navigable water of the U.S. We have determined that the waters present on this project site are jurisdictional waters of the United States. Therefore, we are rescinding the February 5, 2010, preliminary jurisdictional determination and are issuing an approved jurisdictional determination (see enclosed map dated October 15, 2010). The October 15, 2010, map supersedes the preliminary jurisdictional determination map dated February 1, 2010.

The enclosed delineation map entitled, "SPN File 2009-00443S, Approved Jurisdictional Determination, Panoche Valley Solar Farm," in one (1) sheet dated October 15, 2010, accurately depicts the extent and location of other waters of the United States within the boundary area of the site that are subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act. This approved jurisdictional determination is based on the current conditions of the site, as verified during a field investigation of December 14, 2009, and a review of other data submitted by EPA Region 9. This approved jurisdictional determination will expire in five (5) years from the date of this letter, unless new information or a change in field conditions warrants a revision to the delineation map prior to the expiration date. The lateral

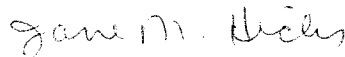
defined by the presence of scouring, sediment deposits, shelving, debris lines, and transitional vegetation on the banks. The basis for this approved jurisdictional determination is further explained in the enclosed *Approved Jurisdictional Determination Form*. This approved jurisdictional determination is presumed to be consistent with the official interagency guidance of June 5, 2007, interpreting the Supreme Court decision, *Rapanos v. United States*, 126 S. Ct. 2208 (2006).

You are advised that the approved jurisdictional determination may be appealed through the U.S. Army Corps of Engineers' *Administrative Appeal Process*, as described in 33 C.F.R. Part 331 (65 Fed. Reg. 16,486; Mar. 28, 2000), and outlined in the enclosed flowchart and *Notification of Administrative Appeal Options, Process, and Request for Appeal* (NAO-RFA) Form. If you do not intend to accept the approved jurisdictional determination, you may elect to provide new information to this office for reconsideration of this decision. If you do not provide new information to this office, you may elect to submit a completed NAO-RFA Form to the Division Engineer to initiate the appeal process; the completed NAO-RFA Form must be submitted directly to the Appeal Review Officer at the address specified on the NAO-RFA Form. You will relinquish all rights to a review or an appeal, unless this office or the Division Engineer receives new information or a completed NAO-RFA Form within sixty (60) days of the date on the NAO-RFA Form. If you intend to accept the approved jurisdictional determination, you do not need to take any further action associated with the Administrative Appeal Process.

You may refer any questions on this matter to Katerina Galacatos of my Regulatory staff by telephone at 415-503-6778 or by e-mail at Katerina.Galacatos@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: <http://www.spn.usace.army.mil/regulatory/>.

Sincerely,



Jane M. Hicks
Chief, Regulatory Division

Enclosures

Copy Furnished (w/ encls):
Solargen Energy, Cupertino, CA (Attn. Eric Cherniss)

Copy Furnished (w/ encl 1 only):
CA RWQCB, Fresno, CA

Copies Furnished (w/o encls):
U.S. EPA, San Francisco, CA
CA SWRCB, Sacramento, CA

PRELIMINARY JURISDICTIONAL DETERMINATION FORM
San Francisco District

This Preliminary Jurisdictional Determination finds that there "may be" waters of the United States in the subject review area and identifies all such aquatic features, based on the following information:

Regulatory Division: South Branch

File Number: 2009-00443S

PJD Completion Date: 12-5-14

Review Area Location

City/County: San Benito County State: California
Nearest Named Waterbody: Panoche Creek/LasAquilas Creeks
Approximate Center Coordinates of Review Area
Latitude (degree decimal format): 36°37'55.11"N
Longitude (degree decimal format): -120°52'35.51"W
Approximate Total Acreage of Review Area: 5020 acres

File Name: Panoche Solar

Applicant or Requestor Information

Name: Mr. Eric Cherniss
Company Name: PV2, LLC
Street/P.O. Box: 845 Oak Grove Ave, Suite 202
City/State/Zip Code: Menlo Park, Ca, 94025

Estimated Total Amount of Waters in Review Area

Non-Wetland Waters: 40199 lineal feet feet wide and/or
31.80 acre(s) Flow Regime: Ephemeral

Wetlands: None lineal feet feet wide and/or
acre(s) Cowardin Class: Select

Name of Section 10 Waters Occurring in Review Area

Tidal: None
Non-Tidal: None

☐ Office (Desk) Determination
☒ Field Determination:
Date(s) of Site Visit(s): 11-10-14

SUPPORTING DATA: Data reviewed for Preliminary JD (check all that apply – checked items should be included in case file and, where checked and requested, appropriately reference sources below)

☒ Maps. Plans, plots or plat submitted by or on behalf of applicant/requestor (specify): JD Determination Pioneer Engineers, November 2009 and Panoche Valley Solar Project Transmission Line Jurisdictional Determination Report, October 30, 2014

☐ Data sheets submitted by or on behalf of applicant/requestor (specify):

☐ Corps concurs with data sheets/delineation report.
☐ Corps does not concur with data sheets/delineation report.

☐ Data sheets prepared by the Corps.

☐ Corps navigable waters' study (specify):

☐ U.S. Geological Survey Hydrologic Atlas:

☐ USGS NHD data.

☐ USGS HUC maps.

☒ U.S. Geological Survey map(s) (cite quad name/scale):

☐ USDA Natural Resources Conservation Service Soil Survey.

☐ National wetlands inventory map(s) (specify):

☐ State/Local wetland inventory map(s) (specify):

☐ FEMA/FIRM maps.

☐ 100-year Floodplain Elevation (specify, if known):

☒ Photographs: ☒ Aerial (specify name and date): Google earth images

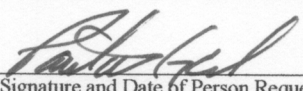
☒ Other (specify name and date): Photographs provided in aboved referenced documents

☒ Previous JD determination(s) (specify File No. and date of response letter): October 10, 2010 JD

☐ Other information (specify):

IMPORTANT NOTE: If the information recorded on this form has not been verified by the Corps, the form should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager
(REQUIRED)

 12/10/14

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

Aquatic Resource I.D.	Latitude (degree decimal format)	Longitude (degree decimal format)	Cowardin Class and Flow Regime	Estimated Area or Lineal Feet of Aquatic Resource		Type of Aquatic Resource
lac1	36.636589°N	-120.8921°W	Riverine Flow: Intermittent	7058 lineal ft 19.65 acre(s)	ft wide	River
lac2	36.625231°N	-120.884664°W	Riverine Flow: Intermittent	1618 lineal ft 0.54 acre(s)	ft wide	River
lac3	36.621492°N	-120.857069°W	Riverine Flow: Intermittent	5931 lineal ft 2.05 acre(s)	ft wide	River
pc1	36.623733°N	-120.870194°W	Riverine Flow: Intermittent	18092 lineal ft 8.77 acre(s)	ft wide	River
ud1	36.659022°N	-120.884458°W	Riverine Flow: Ephemeral	343 lineal ft 0.12 acre(s)	ft wide	Natural Creek
ud2	36.655167°N	-120.884453°W	Riverine Flow: Ephemeral	176 lineal ft 0.06 acre(s)	ft wide	Natural Creek
ud3	36.654292°N	-120.884158°W	Riverine Flow: Ephemeral	236 lineal ft 0.08 acre(s)	ft wide	Natural Creek
ud4	36.652453°N	-120.883211°W	Riverine Flow: Ephemeral	359 lineal ft 0.12 acre(s)	ft wide	Natural Creek
ud5	36.651278°N	-120.881994°W	Riverine Flow: Ephemeral	238 lineal ft 0.08 acre(s)	ft wide	Natural Creek
ud6	36.650419°N	-120.881994°W	Riverine Flow: Seasonal	197 lineal ft 0.07 acre(s)	ft wide	Natural Creek
ud10	36.656508°N	-120.870847°W	Riverine Flow: Seasonal	294.4 lineal ft 0.02 acre(s)	3 ft wide	Natural Creek
ud14	36.648083°N	-120.866283°W	Riverine Flow: Seasonal	1868.8 lineal ft 0.06 acre(s)	1.5 ft wide	Natural Creek
ud19	36.641997°N	-120.861289°W	Riverine Flow: Seasonal	1652.3 lineal ft 0.06 acre(s)	1.5 ft wide	Natural Creek
ud21	36.635244°N	-120.856461°W	Riverine Flow: Seasonal	935 lineal ft 0.06 acre(s)	3 ft wide	Natural Creek
ud22	36.634064°N	-120.853742°W	Riverine Flow: Seasonal	1201 lineal ft 0.06 acre(s)	2 ft wide	Natural Creek
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	ft wide	Select
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	ft wide	Select
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	ft wide	Select



December 10, 2014

Regulatory Division
Attn: Ms. Katerina Galacatos
U.S. Army Corps of Engineers
1455 Market Street
San Francisco, California 94103

RE: Panoche Solar, Preliminary Jurisdictional Determination Request

Dear Ms. Galacatos:

In response to your request, please find the enclosed documents in support of the Panoche Solar project located in San Benito County, California. Enclosed you will find revised jurisdictional determination maps depicting all waters of the U.S. located within the project area study boundary. The enclosed maps are based on the project site verification completed by USACE in November of 2009, the report titled, "*Panoche Valley Solar Project Transmission Line*" submitted on October 30, 2014, the report titled, "*Transmission Line Natural Resources Assessment Report*" dated October 1, 2014, and a field visit conducted on November 10, 2014. Additionally, please find the enclosed signed preliminary jurisdictional determination form and a photo-log documenting the site visit completed in November of 2014.

We hope that with submittal of the enclosed documents, you have all items necessary to finalize a preliminary jurisdictional determination for the project site. If you have any questions, concerns, or would like to schedule a site visit please contact me at your earliest convenience at (415) 317- 4941 or by email Paula.Gill@Johnson-Marigot.com.

Respectfully,

A handwritten signature in black ink, appearing to read "Paula Gill", is written over a horizontal line.

Paula Gill

Johnson Marigot Consulting, LLC

PRELIMINARY JURISDICTIONAL DETERMINATION FORM
San Francisco District

This Preliminary Jurisdictional Determination finds that there "may be" waters of the United States in the subject review area and identifies all such aquatic features, based on the following information:

Regulatory Division: South Branch

File Number: 2009-00443S

PJD Completion Date: 12-5-14

Review Area Location

City/County: San Benito County State: California
Nearest Named Waterbody: Panoche Creek/LasAquilas Creeks
Approximate Center Coordinates of Review Area
Latitude (degree decimal format): 36°37'55.11"N
Longitude (degree decimal format): -120°52'35.51"W
Approximate Total Acreage of Review Area: 5020 acres

File Name: Panoche Solar

Applicant or Requestor Information

Name: Mr. Eric Cherniss
Company Name: PV2, LLC
Street/P.O. Box: 845 Oak Grove Ave, Suite 202
City/State/Zip Code: Menlo Park, Ca, 94025

Estimated Total Amount of Waters in Review Area

Non-Wetland Waters: 40199 lineal feet feet wide and/or
31.80 acre(s) Flow Regime: Ephemeral

Wetlands: None lineal feet feet wide and/or
acre(s) Cowardin Class: Select

Name of Section 10 Waters Occurring in Review Area

Tidal: None
Non-Tidal: None

☐ Office (Desk) Determination
☒ Field Determination:
Date(s) of Site Visit(s): 11-10-14

SUPPORTING DATA: Data reviewed for Preliminary JD (check all that apply – checked items should be included in case file and, where checked and requested, appropriately reference sources below)

☒ Maps. Plans, plots or plat submitted by or on behalf of applicant/requestor (specify): JD Determination Pioneer Engineers, November 2009 and Panoche Valley Solar Project Transmission Line Jurisdictional Determination Report, October 30, 2014

☐ Data sheets submitted by or on behalf of applicant/requestor (specify):

☐ Corps concurs with data sheets/delineation report.
☐ Corps does not concur with data sheets/delineation report.

☐ Data sheets prepared by the Corps.

☐ Corps navigable waters' study (specify):

☐ U.S. Geological Survey Hydrologic Atlas:

☐ USGS NHD data.

☐ USGS HUC maps.

☒ U.S. Geological Survey map(s) (cite quad name/scale):

☐ USDA Natural Resources Conservation Service Soil Survey.

☐ National wetlands inventory map(s) (specify):

☐ State/Local wetland inventory map(s) (specify):

☐ FEMA/FIRM maps.

☐ 100-year Floodplain Elevation (specify, if known):

☒ Photographs: ☒ Aerial (specify name and date): Google earth images

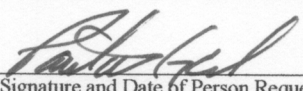
☒ Other (specify name and date): Photographs provided in aboved referenced documents

☒ Previous JD determination(s) (specify File No. and date of response letter): October 10, 2010 JD

☐ Other information (specify):

IMPORTANT NOTE: If the information recorded on this form has not been verified by the Corps, the form should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager
(REQUIRED)


Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

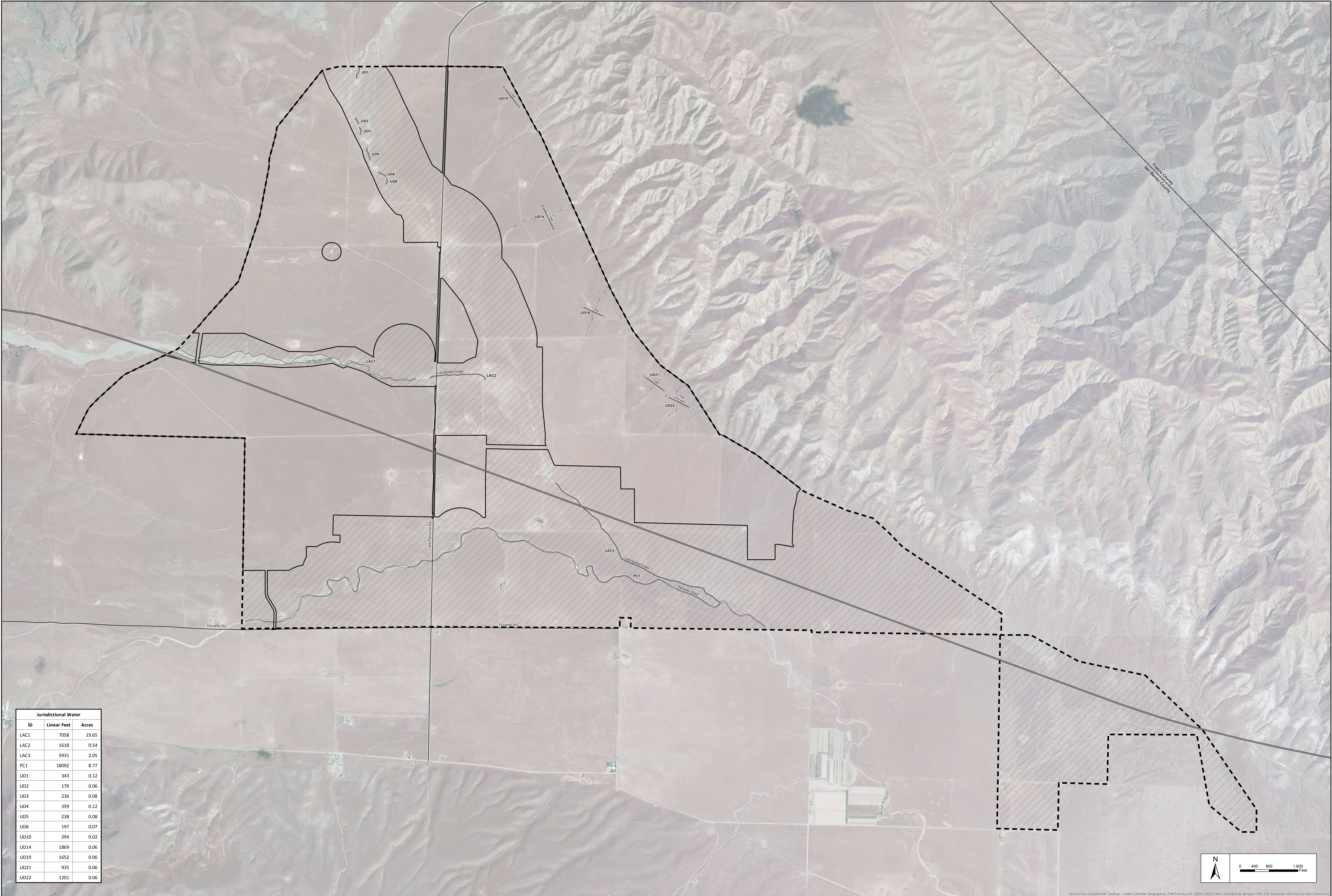
12/10/14

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

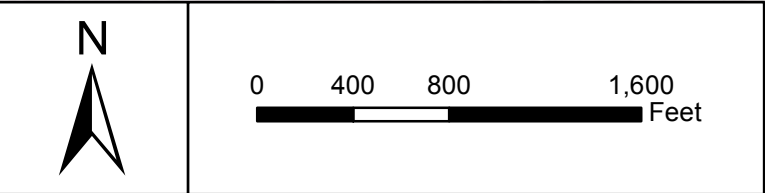
1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

Aquatic Resource I.D.	Latitude (degree decimal format)	Longitude (degree decimal format)	Cowardin Class and Flow Regime	Estimated Area or Lineal Feet of Aquatic Resource	Type of Aquatic Resource
lac1	36.636589°N	-120.8921°W	Riverine Flow: Intermittent	7058 lineal ft 19.65 acre(s)	River
lac2	36.625231°N	-120.884664°W	Riverine Flow: Intermittent	1618 lineal ft 0.54 acre(s)	River
lac3	36.621492°N	-120.857069°W	Riverine Flow: Intermittent	5931 lineal ft 2.05 acre(s)	River
pc1	36.623733°N	-120.870194°W	Riverine Flow: Intermittent	18092 lineal ft 8.77 acre(s)	River
ud1	36.659022°N	-120.884458°W	Riverine Flow: Ephemeral	343 lineal ft 0.12 acre(s)	Natural Creek
ud2	36.655167°N	-120.884453°W	Riverine Flow: Ephemeral	176 lineal ft 0.06 acre(s)	Natural Creek
ud3	36.654292°N	-120.884158°W	Riverine Flow: Ephemeral	236 lineal ft 0.08 acre(s)	Natural Creek
ud4	36.652453°N	-120.883211°W	Riverine Flow: Ephemeral	359 lineal ft 0.12 acre(s)	Natural Creek
ud5	36.651278°N	-120.881994°W	Riverine Flow: Ephemeral	238 lineal ft 0.08 acre(s)	Natural Creek
ud6	36.650419°N	-120.881994°W	Riverine Flow: Seasonal	197 lineal ft 0.07 acre(s)	Natural Creek
ud10	36.656508°N	-120.870847°W	Riverine Flow: Seasonal	294.4 lineal ft 3 ft wide 0.02 acre(s)	Natural Creek
ud14	36.648083°N	-120.866283°W	Riverine Flow: Seasonal	1868.8 lineal ft 1.5 ft wide 0.06 acre(s)	Natural Creek
ud19	36.641997°N	-120.861289°W	Riverine Flow: Seasonal	1652.3 lineal ft 1.5 ft wide 0.06 acre(s)	Natural Creek
ud21	36.635244°N	-120.856461°W	Riverine Flow: Seasonal	935 lineal ft 3 ft wide 0.06 acre(s)	Natural Creek
ud22	36.634064°N	-120.853742°W	Riverine Flow: Seasonal	1201 lineal ft 2 ft wide 0.06 acre(s)	Natural Creek
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	Select
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	Select
	°Select	- °Select	Select Flow: Select	lineal ft acre(s)	Select



Jurisdictional Water		
ID	Linear Feet	Acres
LAC1	7058	19.65
LAC2	1618	0.54
LAC3	5931	2.05
PC1	18092	8.77
UD1	343	0.12
UD2	176	0.06
UD3	236	0.08
UD4	359	0.12
UD5	238	0.08
UD6	197	0.07
UD10	294	0.02
UD14	1869	0.06
UD19	1652	0.06
UD21	935	0.06
UD22	1201	0.06



Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, iGP, swisstopo, and the GIS User Community

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PARTNERS, LLC

- Legend
- Drainage Study Area

Project Footprint

Valley Floor Conservation Lands

Existing Electric Transmission Line

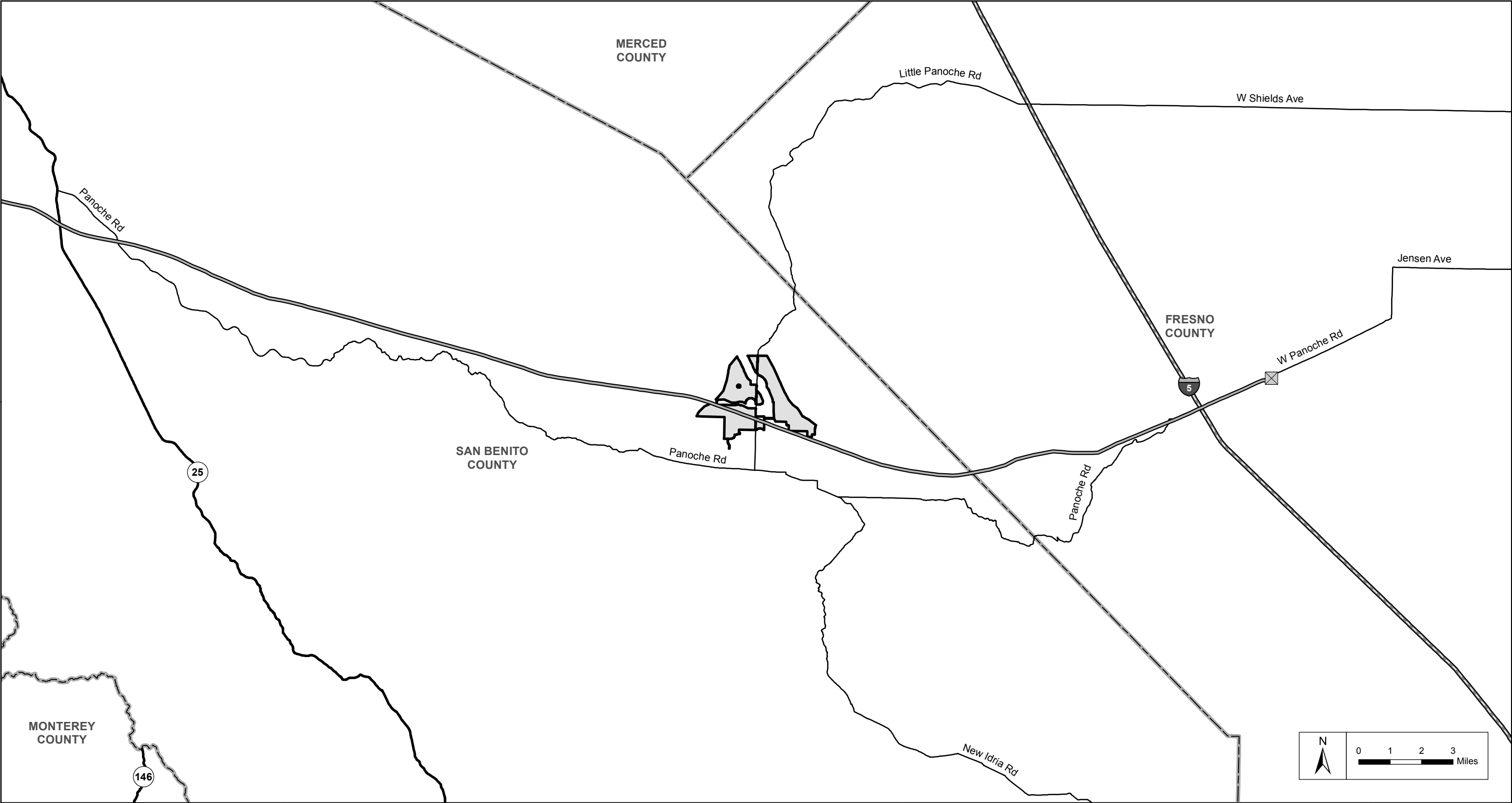
OHWM Transect Line

Ordinary High Water Mark

Jurisdictional Drainage Centerline

Panoche Valley Solar Project
Federal Jurisdictional Waters



FIGURE
1





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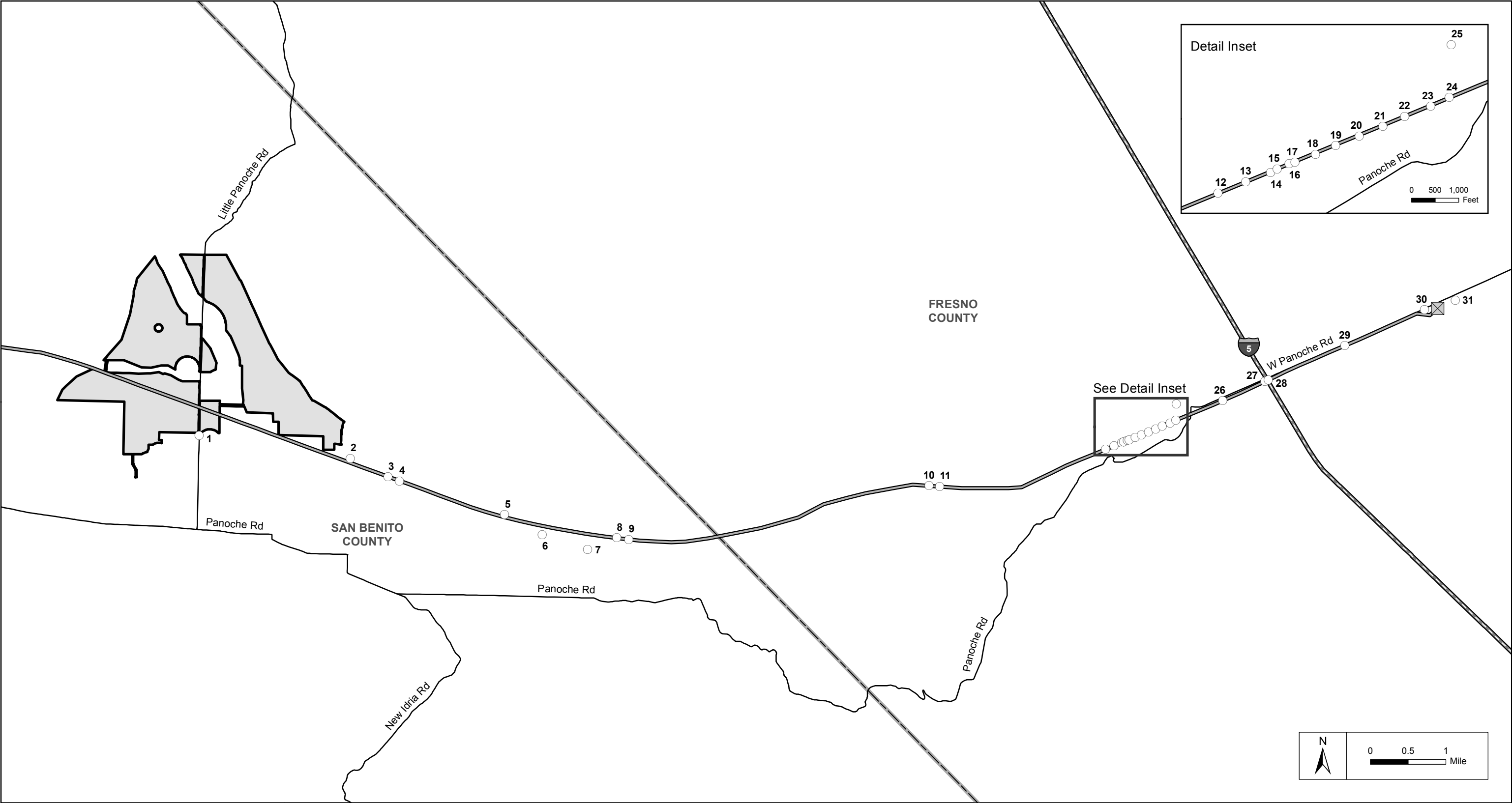
Legend

-  Project Footprint
-  County Boundary

-  Panoche Substation
-  Electric Transmission

Panoche Valley Solar Project
Telecom Upgrades
Regional Overview



FIGURE
2






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Legend

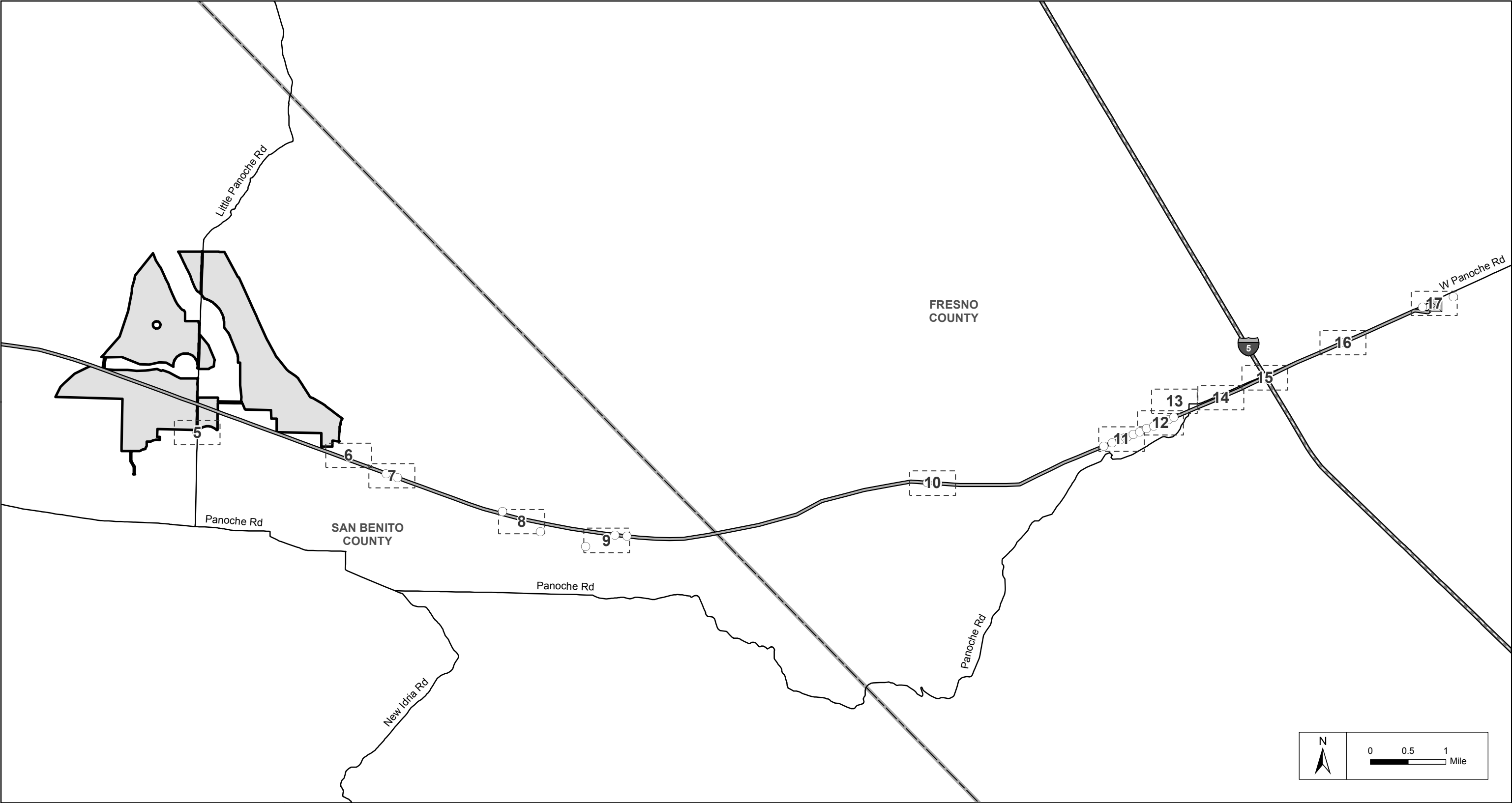
-  Project Footprint
-  County Boundary

-  Panoche Substation
-  Electric Transmission

-  Location of Jurisdictional Determination Study Area

Panoche Valley Solar Project
Telecom Upgrades
Project Overview






FIGURE
3



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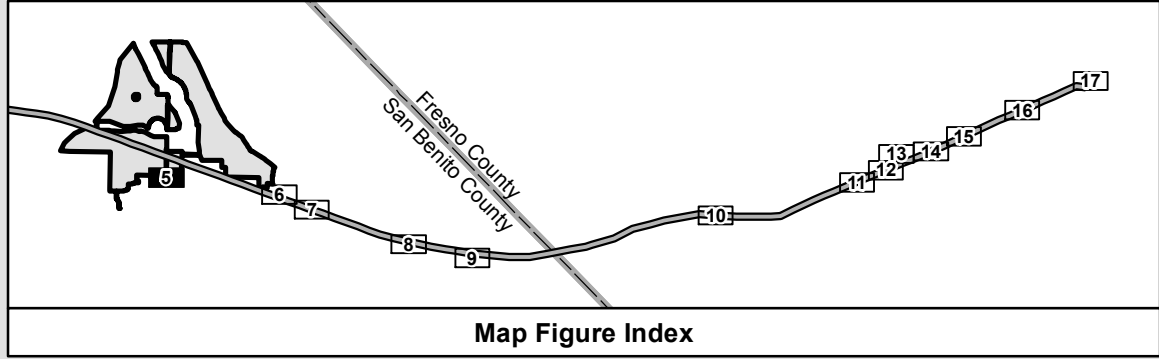


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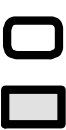
- | | | |
|---|---|---|
|  Project Footprint |  Panoche Substation |  Map Figure Boundary |
|  County Boundary |  Electric Transmission | |

Panoche Valley Solar Project
Telecom Upgrades
Map Figure Index

FIGURE
4



Legend



Jurisdictional
Determination
Study Area

Solar Project Area

--- AT&T Cable
Below Ground Option

Panoche Valley Solar Project

Telecom Upgrades

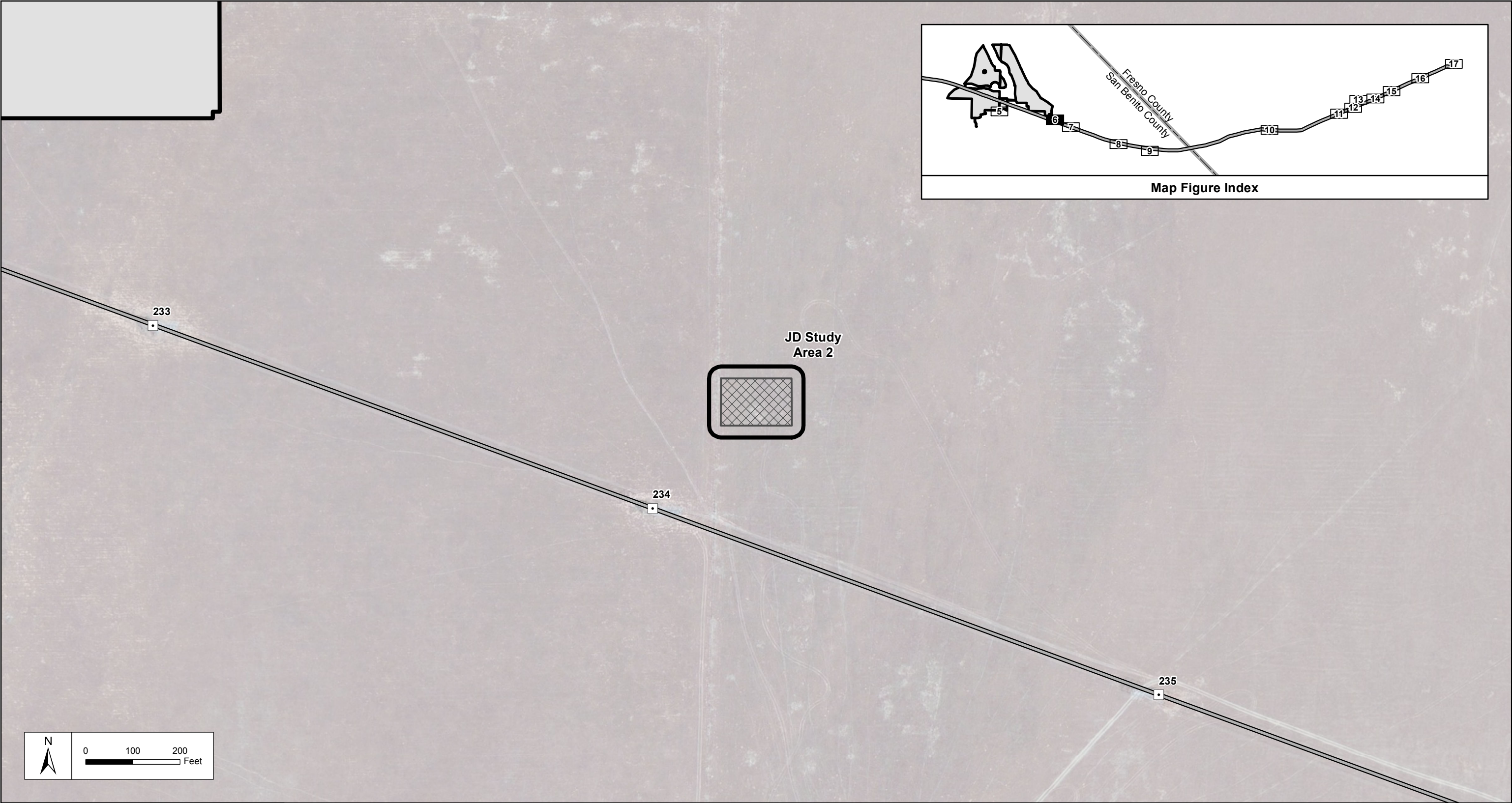
Jurisdictional Determination Study Area 1

FIGURE

5

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Legend

 Jurisdictional Determination Study Area

 Solar Project Area

 Existing Transmission Structure

 Existing Electric Transmission

 Landing Zone Work Area

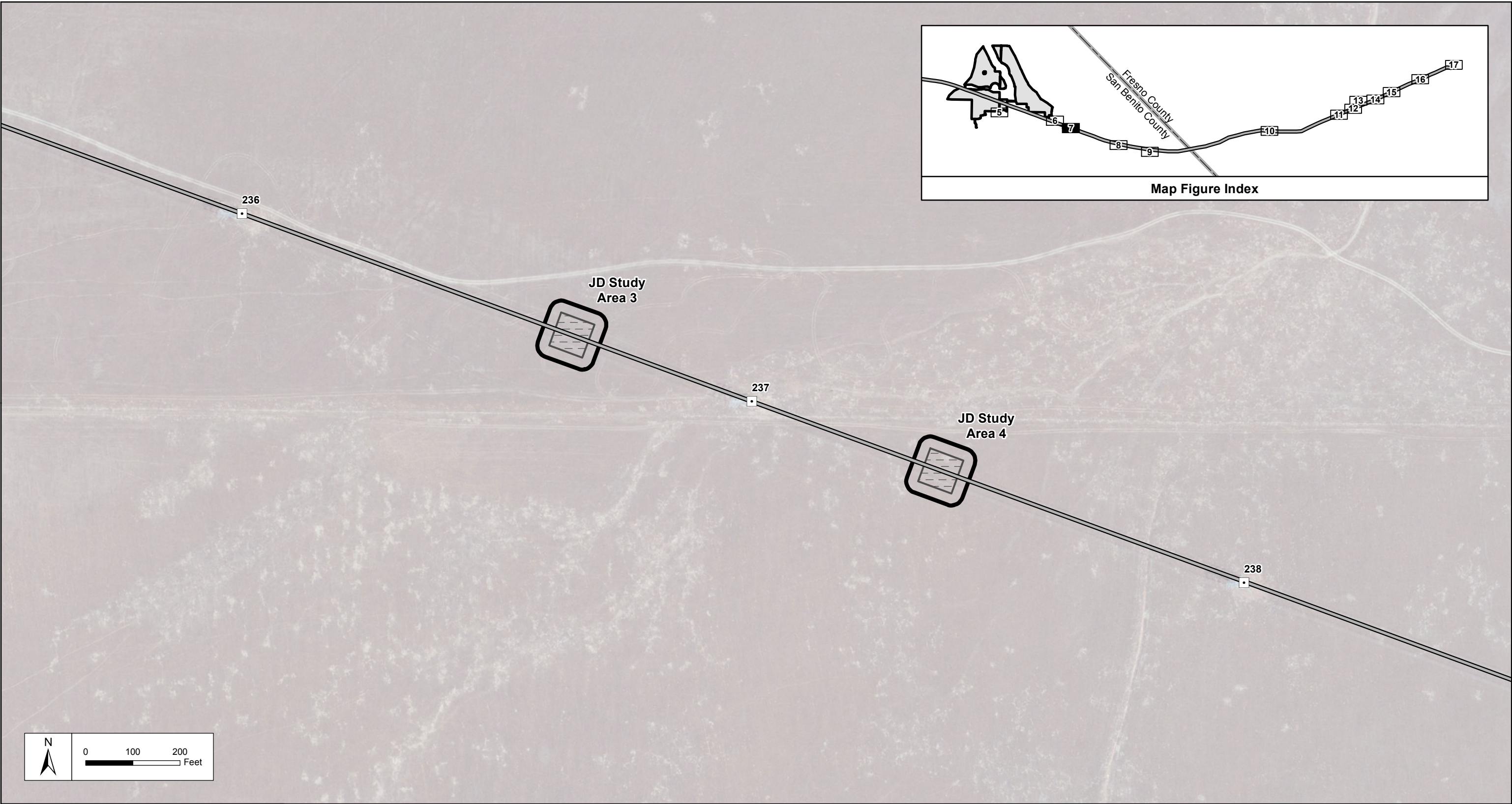
Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Area 2

FIGURE

6



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PARTNERS, LLC

Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



Wire Pull Site
Work Area

Panoche Valley Solar Project

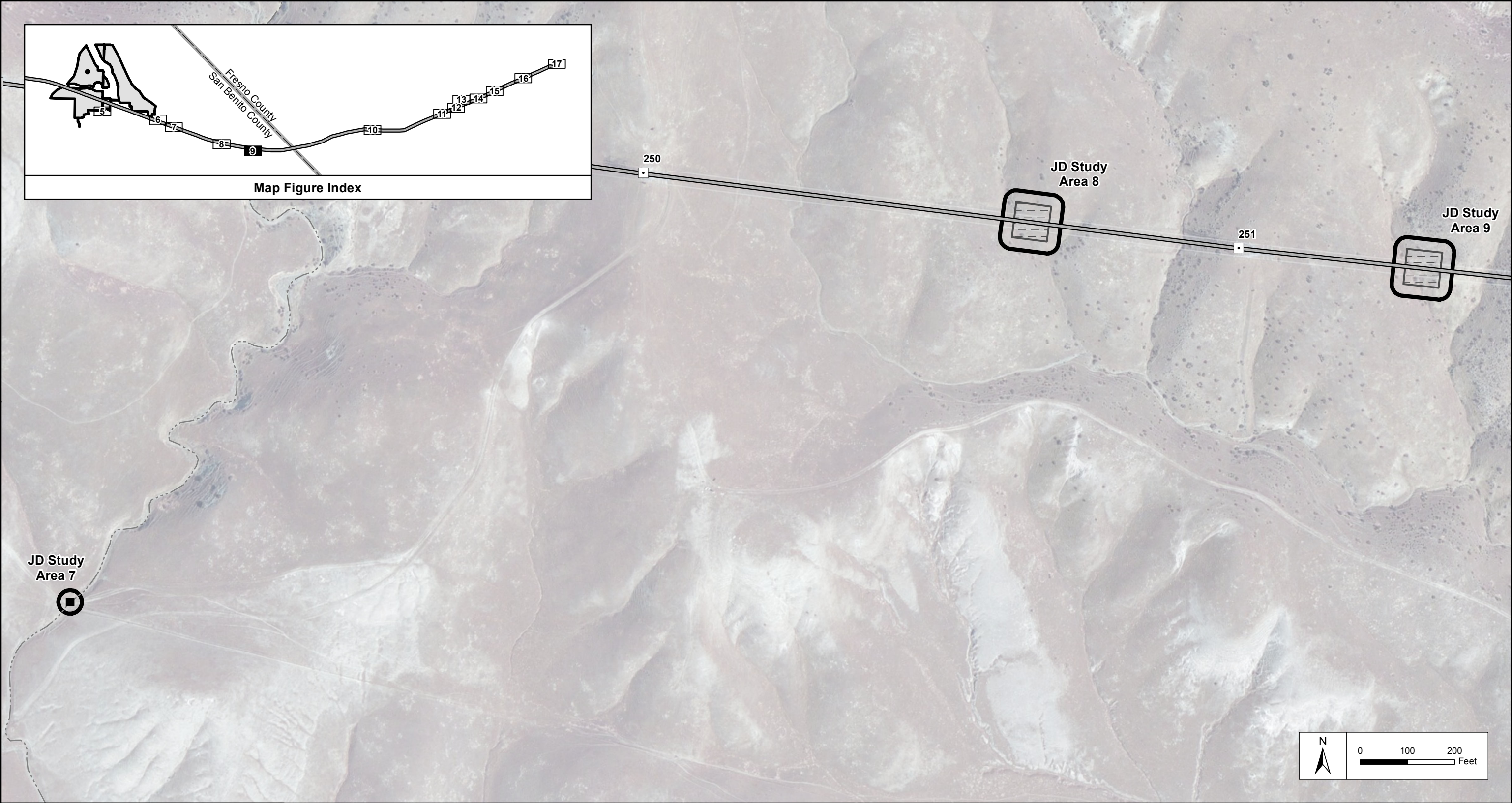
Telecom Upgrades

Jurisdictional Determination Study Areas 3 and 4

FIGURE

7





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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



Wire Pull Site
Work Area



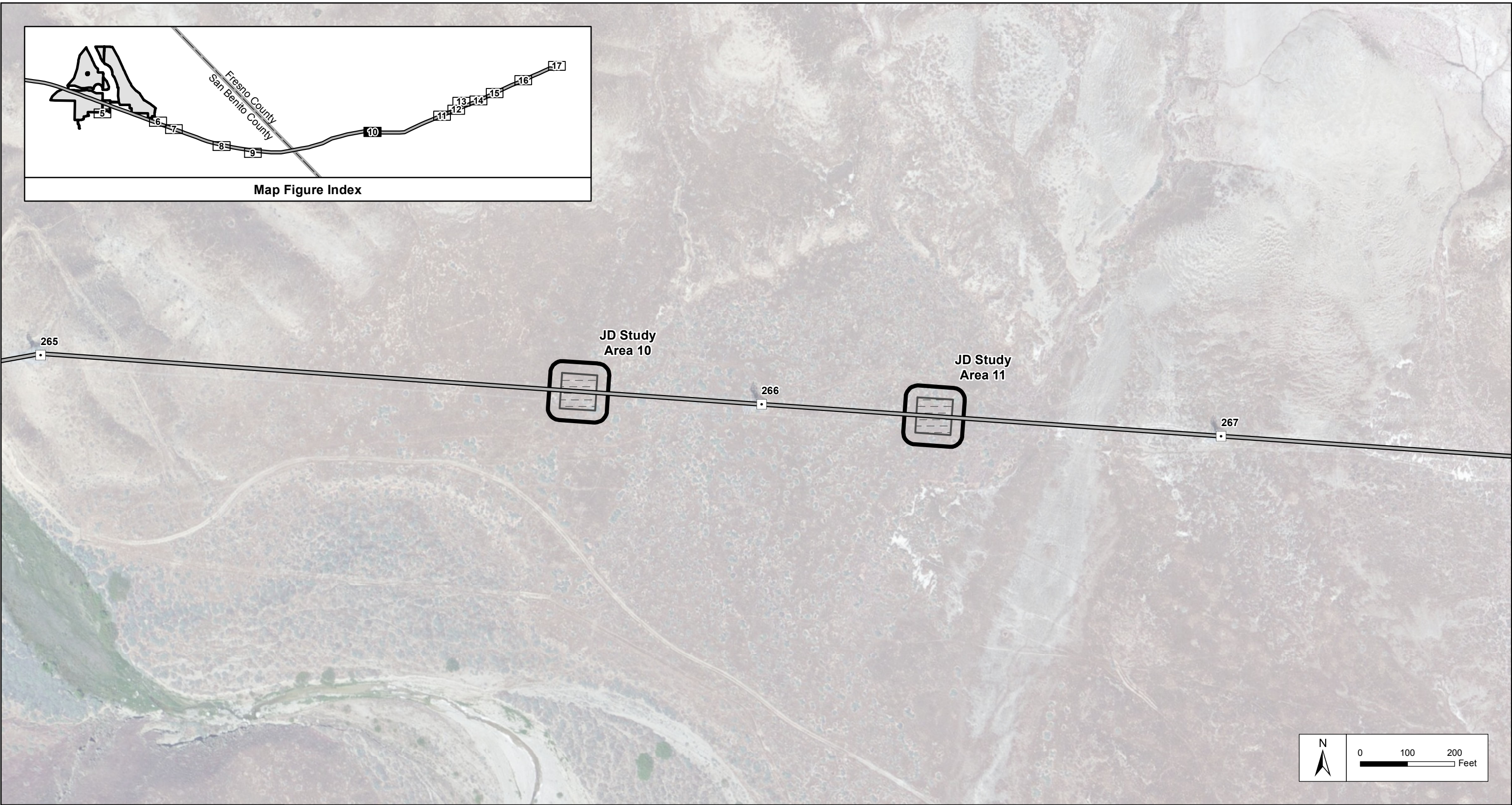
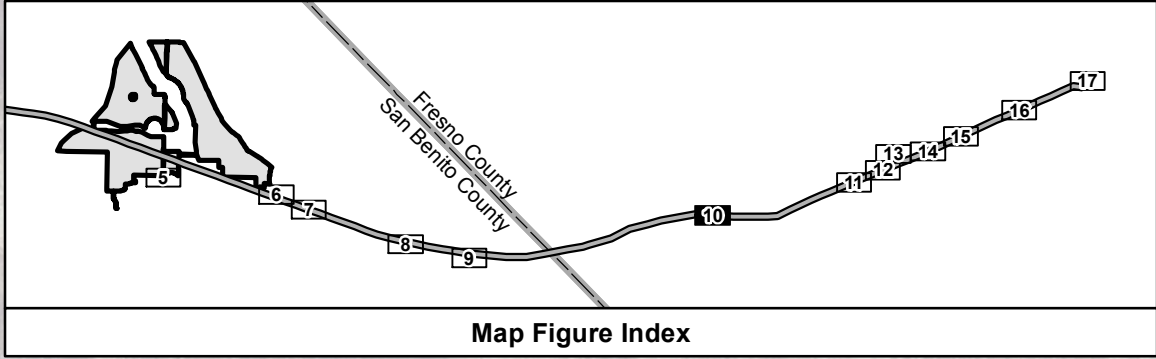
Possible Bridging
Location



Drainage

Panoche Valley Solar Project
Telecom Upgrades
Jurisdictional Determination Study Areas 7 - 9

FIGURE
9



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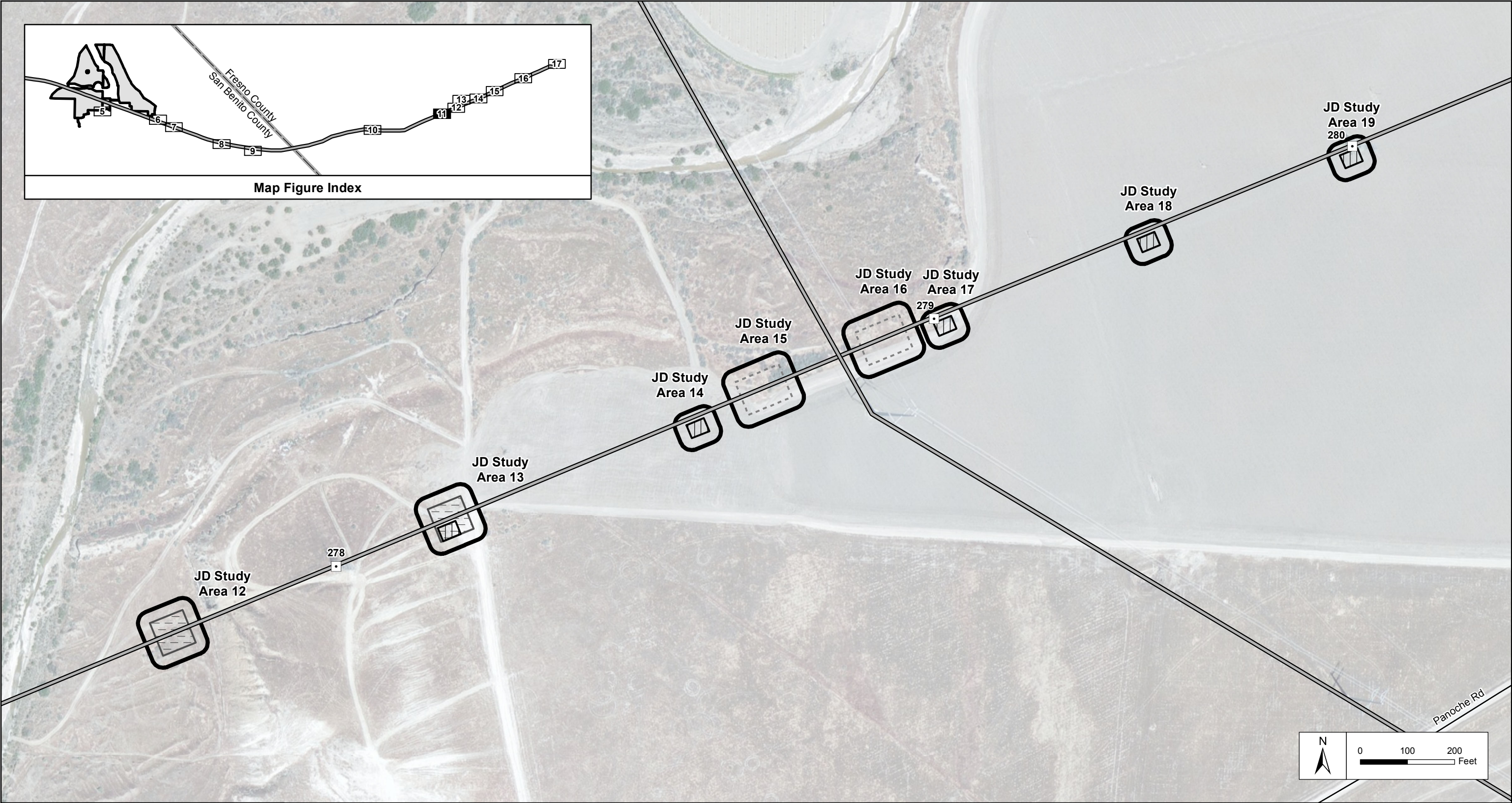
Energy Renewal
PARTNERS, LLC

Legend

	Jurisdictional Determination Study Area		Existing Transmission Structure		Wire Pull Site Work Area
			Existing Electric Transmission		

Panoche Valley Solar Project
Telecom Upgrades
Jurisdictional Determination Study Areas 10 and 11

FIGURE
10



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



ADSS Pole
Work Area



Guard Structure
Work Area



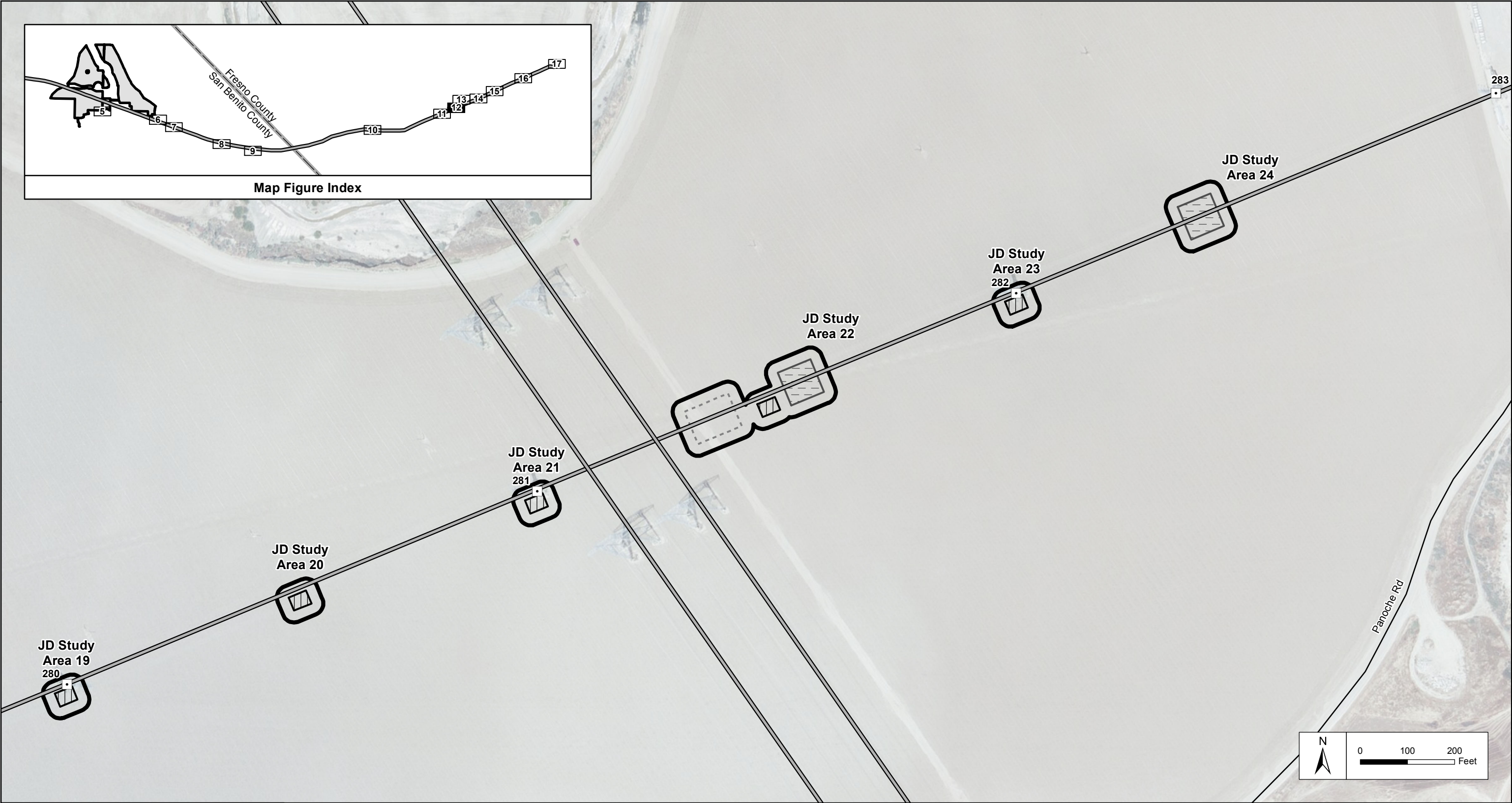
Wire Pull Site
Work Area

Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Areas 12 - 19

FIGURE
11



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



ADSS Pole
Work Area



Guard Structure
Work Area



Wire Pull Site
Work Area

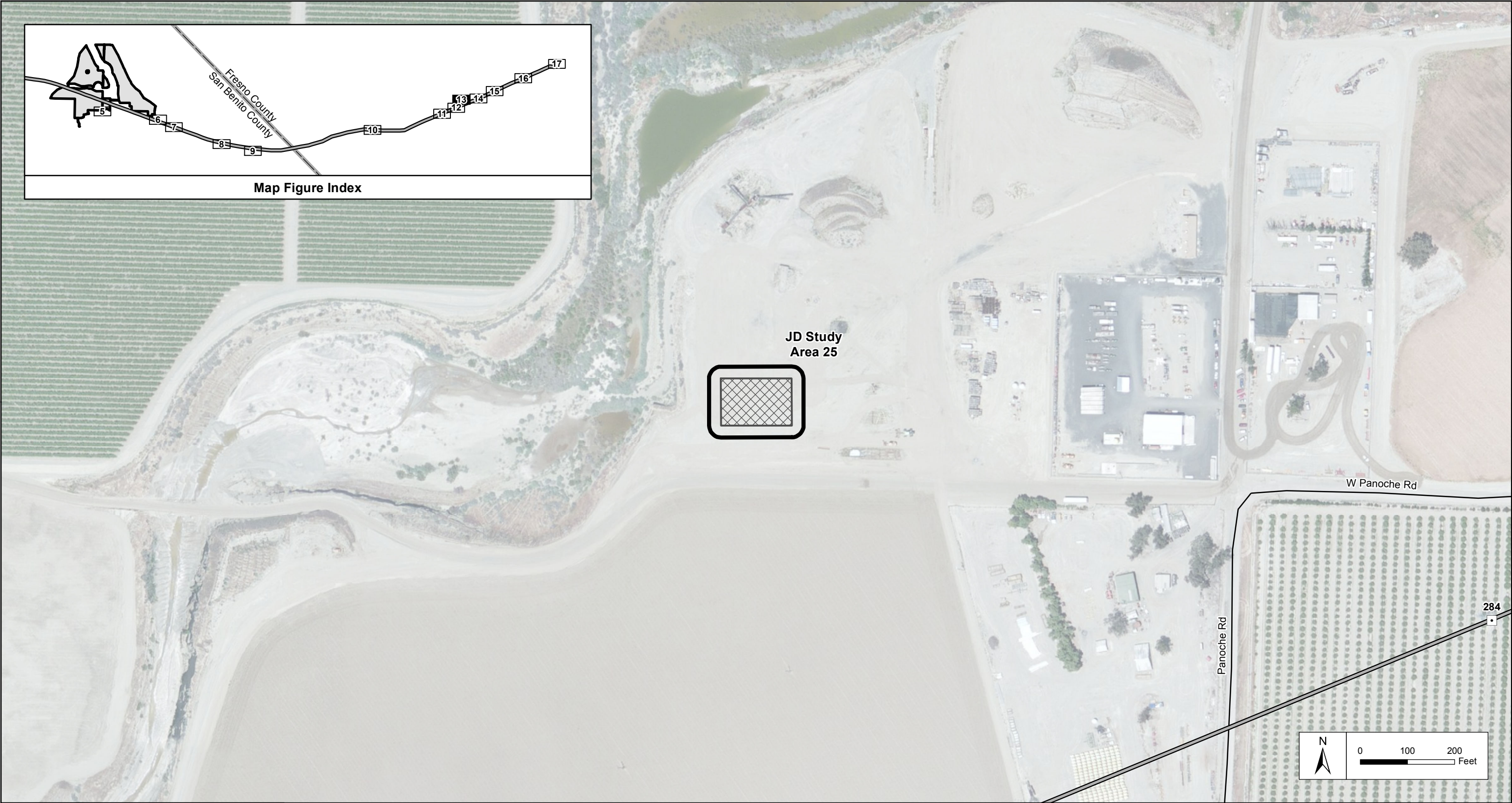
Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Areas 19 - 24

FIGURE

12



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



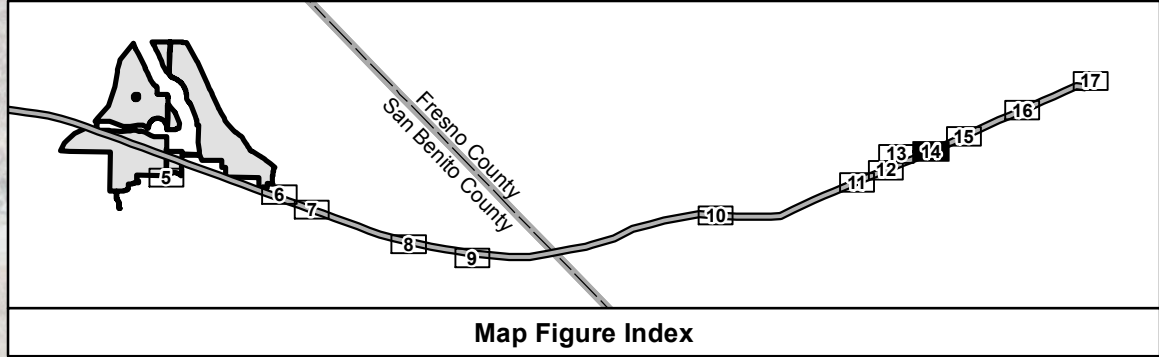
Existing Electric
Transmission



Landing Zone
Work Area

Panoche Valley Solar Project
Telecom Upgrades
Jurisdictional Determination Study Area 25

FIGURE
13



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



Guard Structure
Work Area

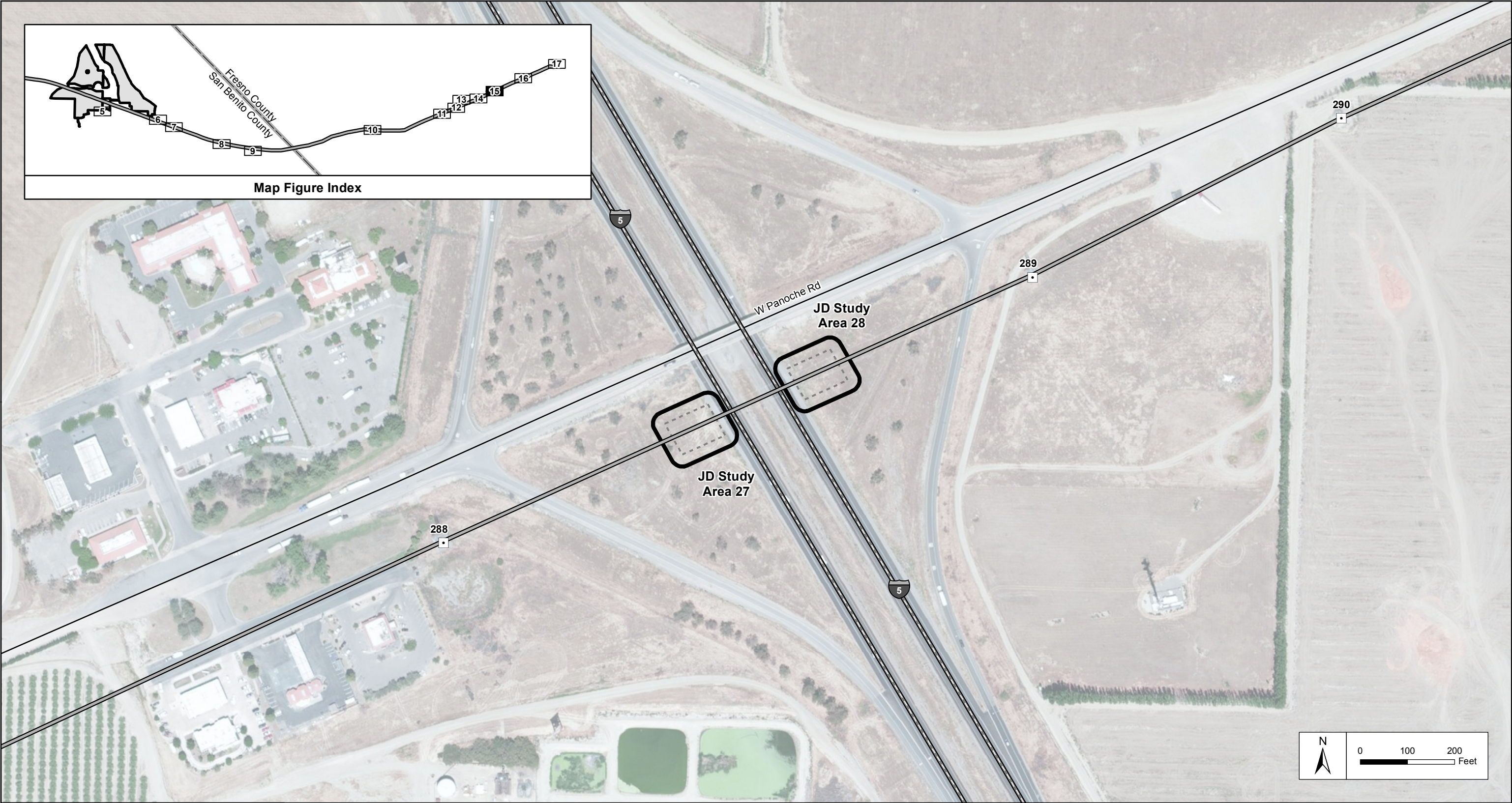
Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Area 26

FIGURE

14



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



Guard Structure
Work Area

Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Areas 27 and 28

**FIGURE
15**



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Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



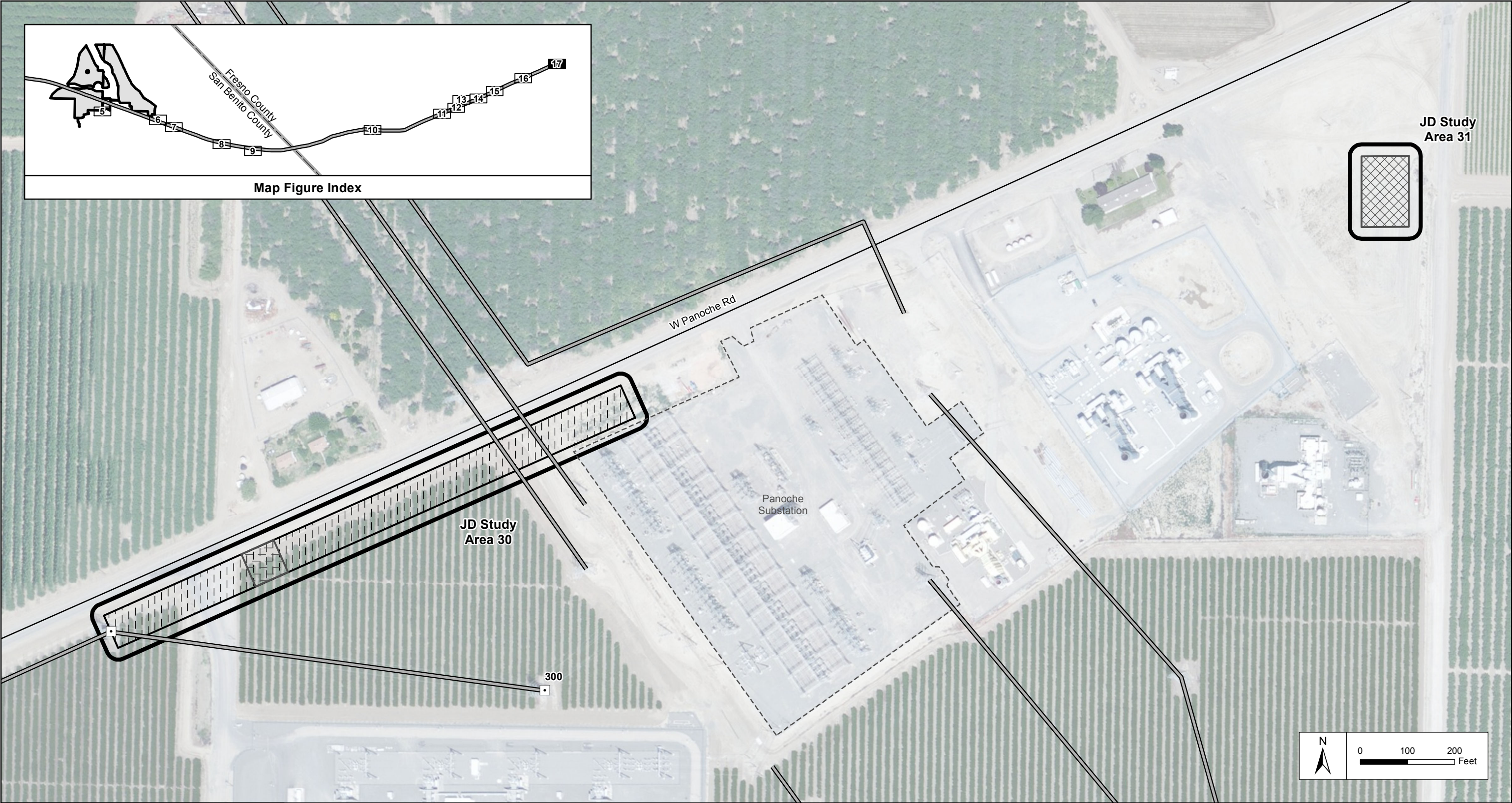
Existing Electric
Transmission



Guard Structure
Work Area

Panoche Valley Solar Project
Telecom Upgrades
Jurisdictional Determination Study Area 29

FIGURE
16



Legend



Jurisdictional
Determination
Study Area



Existing Transmission
Structure



Existing Electric
Transmission



Landing Zone
Work Area



Panoche Substation
OPGW UG Work Area



Wire Pull Site
Work Area

Panoche Valley Solar Project

Telecom Upgrades

Jurisdictional Determination Study Areas 30 and 31

FIGURE

17

Field Visit Summary:

A site visit was completed on 11/10/14 by USACE Project Manager Katerina Galacatos, Johnson Marigot Consulting staff Paula Gill, and Energy Renewal Partners Staff Julianne Wooten. The length of the eastern boundary was walked and observations were made at each drainage. Drainages were walked from the fence line to the end of drainage. Photographs were taken and are summarized in the below photo log. Photo log (slide) numbers correspond to numbers on Figure 4, Panoche Valley Solar Project, Drainage Impacts map dated 11/7/14 (JH). Drainages observed in the field, but not represented on the map, were numbered based on the nearest drainage to the west and given consecutive letter designations.

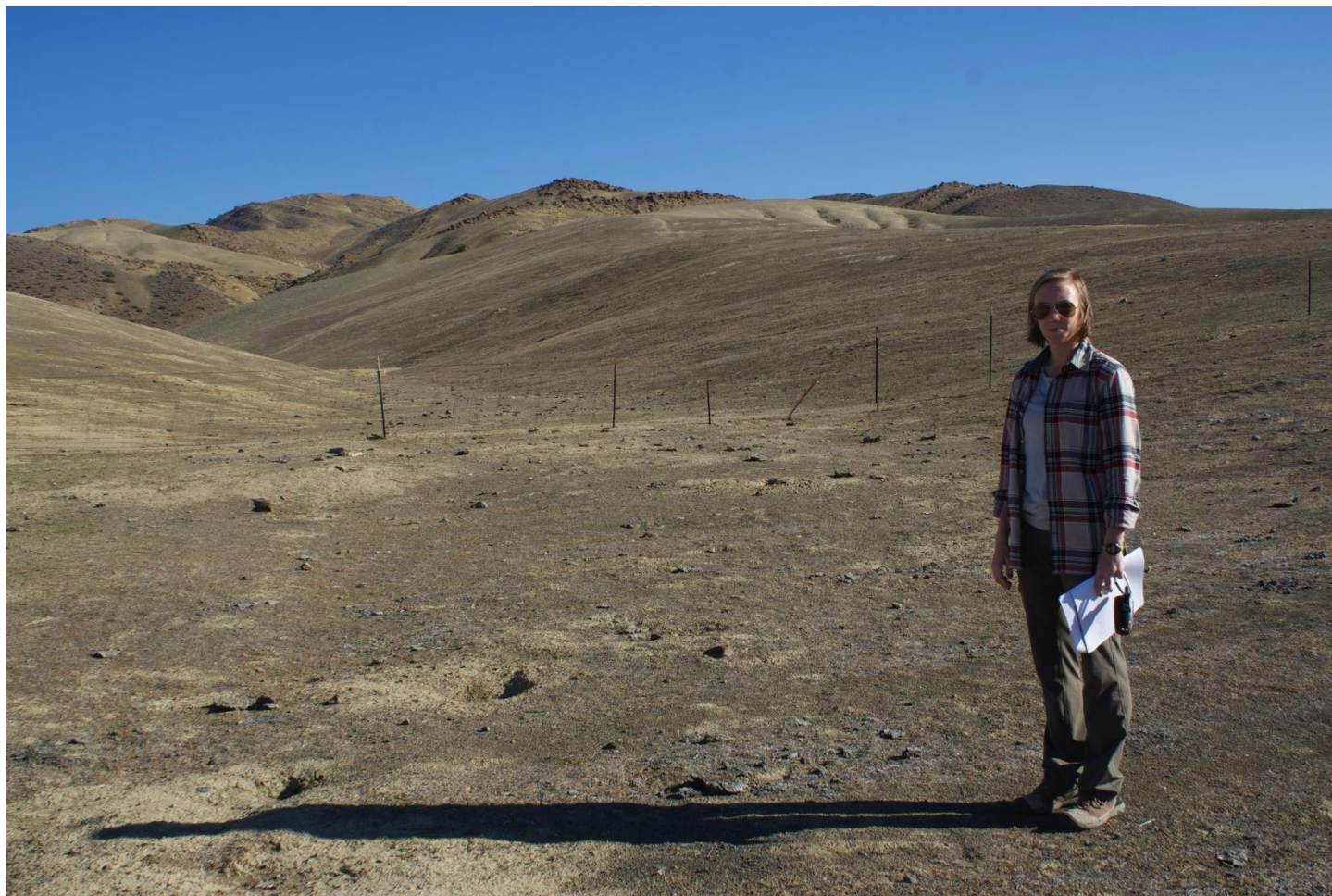
In general, the majority of drainages form in the topography beyond the project boundary (rolling hills to the east). Micro-watersheds concentrate minimal short-duration flow in the drainages. Flow events do not however maintain the volume and/or duration required to establish an OHWM. Topography (i.e., entrenched drainages) also did not necessarily coordinate with establishment of OHWM (e.g. 12).

At five drainages an OHWM was observed. In these five drainages it appears that volume and/or duration of flow events is large enough to establish OHWM character. As typically observed in the arid west (ephemeral flows) OHWM characters observed included sediment-sorting (fine deposition below the OHWM), settlement of debris (small sticks, organic matter) at the OHWM, soil cracking below the OHWM, and absence of vegetation below the OHWM. Generally the lateral extent of the waters was limited to 5' - 1.5'. The length of each drainage was determined by direct observation in the field. Where the OHWM was no longer visible, the end of the drainage was noted.

The below photo log and associated notes represent information gathered in the field by all three participants and summarizes consensus based on observed characters. No wetland characters were observed. No in-stream wetlands are present within the hillside drainages.



Drainage 25: No observed bed and bank, no OHWM, very minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills

Drainage 24: No observed bed and bank, no OHWM, very minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 24a: No observable bed and bank, no OHWM, minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking SW toward valley

Drainage 24b: No observed bed and bank, no OHWM, minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 24c: No observed bed and bank, no OHWM, minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 23: No OHWM, minimal sediment sorting. Some observed topography.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 23a: No bed and bank, no OHWM, minimal sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 22/32/33: OHWM evident based on observed shelving, settled debris, and sediment sorting. Flow lines observed and sediment cracking observed in the lower portions of the drainage.

Field Verification: water of the U.S.



Shelving formed by flowing water



Top of drainage near project area fence, lateral extent approximately 3'



Mid-drainage clear bed and bank condition



Mid-drainage clear bed and bank condition

Drainage 22/32/33 (continued): OHWM evident observed characters include: shelving, settled debris, and sediment sorting. Flow lines observed.
Field Verification: water of the U.S.



Toward bottom of drainage, lateral extent narrows to 1'



Debris (sticks and vegetation) accumulated at edge OHWM



Debris (sticks and vegetation) trapped in fencing indicating 8-10" of flow.

Drainage 22/32/33 (continued): Photographs taken beyond fork in drainage caused by informal roadway (2-track).
Field Verification: Feature to east (left) did not demonstrate an OHWM and was therefore not jurisdictional. Drainage to the west (right) maintained an OHWM down the western fork for a short distance.



West drainage with shelving to indicate OHWM



East drainage, no debris accumulation, no OHWM, no bed and bank

Drainage 21: Form and character similar to Drainage 22/32/22. Clear OHWM evident due to accumulation of debris, shelving, and sediment sorting. Line of vegetation occurs at the OHWM. Soil cracking in channel also observed below OHWM.

Field Verification: water of the U.S.



Drainage 21 (continued): Form and character similar to Drainage 22/32/22. Clear OHWM evident due to accumulation of debris, shelving, and sediment sorting. Line of vegetation occurs at the OHWM. Soil cracking in channel, below OHWM, also observed.



Photograph looking toward hills and eastern project boundary

Drainage 21: No bed and bank, no OHWM, limited sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 21a: No bed and bank, no OHWM, limited sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 20: No bed and bank, no OHWM, limited sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills

Drainage 20a: No bed and bank, no OHWM, limited sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken looking NE toward hills



Photograph taken looking SW toward valley

Drainage 19: Form and character similar to Drainage 22/32/22 and 21. From top of bank very steep slopes. Lateral extent of waters approximately 1.5' throughout. Extends to fence. Clear OHWM evident due to accumulation of debris, shelving, and sediment sorting. Soil cracking in channel also observed. Well defined bed and bank.

Field Verification: water of the U.S.



Photograph taken at eastern project boundary
looking north from east bank



Photograph taken on east bank looking south



Lateral extent approximately 1.5'

Drainage 18/17/30: Well defined topography (in excess of 6-7'), bed and bank, no OHWM, no debris, limited sediment sorting, minimal observed cracking.

Field Verification: Not a water of the U.S.



Photograph taken within the drainage looking east



Bottom of drainage



Photograph taken on east bank of drainage looking north

Drainage 17 (continued): No bed and bank, no OHWM, no debris, limited sediment sorting, minimal observed cracking.
Field Verification: Not a water of the U.S.

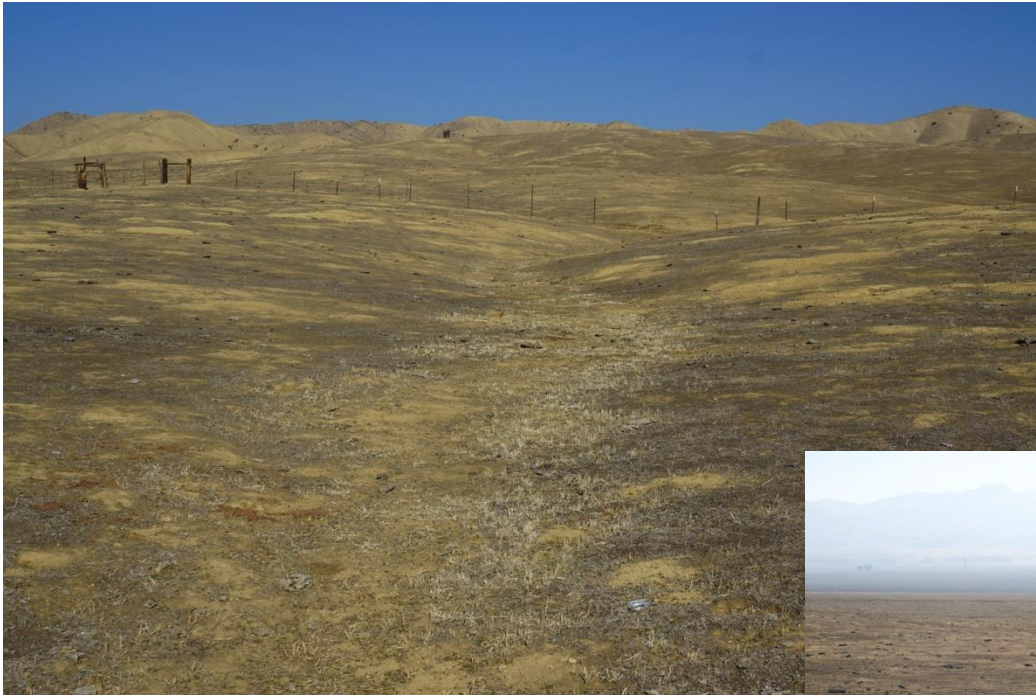


Photograph taken looking south toward the valley



Photograph taken looking north toward the hills

Drainage 16: No bed and bank, no OHWM, no debris, no sediment sorting. Extremely small drainage
Field Verification: Not a water of the U.S.



Photograph taken looking north toward the eastern project boundary



Photograph taken looking south toward the valley

Drainage 15: Very small short drainage, hardly visible.
Field Verification: Not a water of the U.S.



Photograph taken looking south toward an internal fence

Drainage 14: Form and character similar to Drainage 22/32, 21, and 19. Very steep topography. Lateral extent of waters approximately 1.5' throughout. Extends to fence. Clear OHWM evident due to accumulation of debris, shelving, and sediment sorting. Soil cracking in channel also observed. Well defined bed and bank. Field Verification: water of the U.S.



Photograph taken in the drainage looking toward the valley



Observed shelving



Photograph taken from top of bank looking toward the valley



Bottom of drainage where OHWM is no longer observable, becomes a vegetated swale (not wetland)

Drainage 13: Vegetated swale (no evidence of wetland). No bed and bank, no OHWM, no debris, no sediment sorting.
Field Verification: Not a water of the U.S.



Photograph taken in the drainage looking toward hills



Photograph (to left) taken in the drainage looking toward the valley

Drainage 12: Very established, deep topography. No OHWM, no debris, no sediment sorting.
Field Verification: Not a water of the U.S.



Photograph (top left) taken in the drainage looking toward the eastern project boundary (fence). Steep topography with very narrow flow pattern (to left). Evidence of minimal flow (sediment) but lack of OHMW (top right, i.e., no debris, sediment cracking, shelving).



Drainage 11: Mild topography, No bed and bank, no OHWM, no sediment sorting.
Field Verification: Not a water of the U.S. Tributary to drainage 12.



Photograph taken of the bottom of the channel

Drainage 10: Mild topography, however an OHWM was observed. Observed characters included sinuosity, shelving, rocks scattered within the drainage, debris accumulated in barb wire within the drainage, and some sediment sorting. Lateral extent of waters approximately 3' throughout.

Field Verification: water of the U.S.



Photograph (top left) taken in the drainage looking toward the eastern project boundary (fence) demonstrates drainage sinuosity. Barb wire with debris accumulation (bottom left). Shelving and undercutting observed along the rocks within the drainage (top right).

Drainage 9: Vegetated swale (no wetland parameters observed) No bed and bank, no OHWM, very minimal sorting of sediments.
Field Verification: Not a water of the U.S.



Photograph taken looking toward the eastern project boundary (fence).

Drainage 8: Vegetated swale (no wetland) No bed and bank, no OHWM, very minimal sorting of sediments.
Field Verification: Not a water of the U.S.



Photograph taken in the drainage looking toward the eastern project boundary (fence).



Photograph taken in the drainage looking toward the valley.

Drainage 7: No bed and bank, no OHWM, no sorting of sediments.
Field Verification: Not a water of the U.S.



Photograph taken looking north toward the eastern project boundary



Photograph taken looking south toward the valley

Drainage 6: No bed and bank, no OHWM, no sorting of sediments.
Field Verification: Not a water of the U.S.



Photograph taken looking south toward the valley

Drainage 5: No bed and bank, no OHWM, no sorting of sediments.
Field Verification: Not a water of the U.S.



Photograph taken looking south toward the valley

PRELIMINARY JURISDICTIONAL DETERMINATION FORM
Sacramento District

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Regulatory Branch: **Regulatory Division**

File/ORM #: **SPN-2009-00443**

PJD Date: **June 24, 2015**

State: **CA** City/County: **San Benito County, Fresno County**
Nearest Waterbody: **Panoche Creek**
Location (Lat/Long): **36.63637°, -120.85500; see attached**
Size of Review Area: **981 acres**

Name/Address Of Property Owner/
Potential Applicant **Panoche Valley Solar
Attn: Mr. John Pimentel
845 Oak Grove Avenue, Suite 202
Menlo Park, California 94024**

Identify (Estimate) Amount of Waters in the Review Area

Non-Wetland Waters:

linear feet ft wide **0.39 acre(s)**

Stream Flow: **Intermittent and Ephemeral**

Wetlands: acre(s)

Cowardin Class: **N/A**

Name of any Water Bodies Tidal:
on the site identified as
Section 10 Waters: Non-Tidal:

☒ Office (Desk) Determination
☐ Field Determination:
Date(s) of Site Visit(s):

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply – checked items should be included in case file and, where checked and requested, appropriately reference sources below)

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Jurisdictional Determination drawings prepared by Energy Renewal Partners, LLC.**
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☐ Data sheets prepared by the Corps.
- ☐ Corps navigable waters' study.
- ☐ U.S. Geological Survey Hydrologic Atlas:
☐ USGS NHD data.
☐ USGS HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name:
- ☐ USDA Natural Resources Conservation Service Soil Survey.
- ☐ National wetlands inventory map(s).
- ☐ State/Local wetland inventory map(s).
- ☐ FEMA/FIRM maps.
- ☐ 100-year Floodplain Elevation (if known):
- ☒ Photographs: ☒ Aerial
☒ Other
- ☒ Previous determination(s). File no. and date of response letter: **SPN-2009-00443, dated February 5, 2010 and October 18, 2010**
- ☐ Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager
(REQUIRED)

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Panoche Valley Solar

File No.: SPN-2009-00443

Date: June 24, 2015

Attached is:

See Section below

	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Lisa M. Gibson
Regulatory Permit Specialist
Regulatory Division
U.S. Army Corps of Engineers
1325 J Street, Room 1350
Sacramento, California 95814-2922
Phone: 916-557-5288, FAX 916-557-7803
Email: Lisa.M.Gibson2@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: 415-503-6574, FAX 415-503-6646
Email: Thomas.J.Cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
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Panoche-Moss Landing 230 kV Transmission Line Location Descriptions

1. Review Area 1: On and adjacent to the east of Little Panoche Road and north of Yturiarte Road, in Sections 21 and 22, Township 15 South, Range 10 East, Mount Diablo Meridian, Latitude 36.61553° North, Longitude 120.87658° West, in San Benito County, California.
2. Review Area 2: SW 1/4 Section 13 and SW 1/4 Section 14, Township 15 South, Range 10 East, Mount Diablo Meridian, Latitude 36.62109° North, Longitude 120.840453° West, in San Benito County, California.
3. Review Area 3: S 1/2 Section 13, Township 15 South, Range 10 East, Mount Diablo Meridian, Latitude 36.61761° North, Longitude 120.83130° West, in San Benito County, California.
4. Review Area 4: NE 1/4 Section 24, , Township 15 South, Range 10 East, Mount Diablo Meridian, Latitude 36.61683° North, Longitude 120.82863° West, in San Benito County, California.
5. Review Area 5: NW 1/4 Section 19, Township 15 South, Range 11 East, Mount Diablo Meridian, Latitude 36.610766° North, Longitude 120.803433° West, in San Benito County, California.
6. Review Area 6: SW 1/4 Section 20, Township 15 South, Range 11 East, Mount Diablo Meridian, Latitude 36.60701° North, Longitude 120.79438° West, in San Benito County, California.
7. Review Area 7: SE 1/4 Section 20, Township 15 South, Range 11 East, Mount Diablo Meridian, Latitude 36.60437° North, Longitude 120.783463° West, in San Benito County, California.
8. Review Area 8: SW 1/4 Section 21, Township 15 South, Range 11 East, Mount Diablo Meridian, Latitude 36.60670° North, Longitude 120.77662° West, in San Benito County, California.
9. Review Area 9: SW 1/4 Section 21, Township 15 South, Range 11 East, Mount Diablo Meridian, Latitude 36.60649° North, Longitude 120.77387° West, in San Benito County, California.
10. Review Area 10: SW 1/4 Section 18, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.61781° North, Longitude 120.70257° West, in Fresno County, California.
11. Review Area 11: SW 1/4 Section 18, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.61776° North, Longitude 120.69997° West, in Fresno County, California.
12. Review Area 12: NE 1/4 Section 16, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.625443° North, Longitude 120.66058° West, in Fresno County, California.
13. Review Area 13: NE 1/4 Section 16, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.626151° North, Longitude 120.65858° West, in Fresno County, California.
14. Review Area 14: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62663° North, Longitude 120.65713° West, in Fresno County, California.
15. Review Area 15: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62697° North, Longitude 120.65635° West, in Fresno County, California.
16. Review Area 16: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62724° North, Longitude 120.65546° West, in Fresno County, California.

17. Review Area 17: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62731° North, Longitude 120.65502° West, in Fresno County, California.
18. Review Area 18: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62776° North, Longitude 120.65357° West, in Fresno County, California.
19. Review Area 19: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62832° North, Longitude 120.65210° West, in Fresno County, California.
20. Review Area 20: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62891° North, Longitude 120.65041° West, in Fresno County, California.
21. Review Area 21: NE 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.62951° North, Longitude 120.64872° West, in Fresno County, California.
22. Review Area 22: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63010° North, Longitude 120.64713° West, in Fresno County, California.
23. Review Area 23: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63071° North, Longitude 120.64531° West, in Fresno County, California.
24. Review Area 24: NW 1/4 Section 15, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63125° North, Longitude 120.64399° West, in Fresno County, California.
25. Review Area 25: SE 1/4 Section 10, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63433° North, Longitude 120.64395° West, in Fresno County, California.
26. Review Area 26: SW 1/4 Section 11, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63514° North, Longitude 120.63283° West, in Fresno County, California.
27. Review Area 27: Adjacent to the west of Interstate 5, in the SE 1/4 Section 11, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63891° North, Longitude 120.62302° West, in Fresno County, California.
28. Review Area 28: Adjacent to the east of Interstate 5, in the SW 1/4 Section 12, Township 15 South, Range 12 East, Mount Diablo Meridian, Latitude 36.63933° North, Longitude 120.62210° West, in Fresno County, California.
29. Review Area 29: Adjacent to the south-east of the intersection of South Brannan Avenue and West Panoche Road, in the NW SE 1/4 Section 11, Township 15 South, Range 13 East, Mount Diablo Meridian, Latitude 36.64606° North, Longitude 120.60400° West, in Fresno County, California.
30. Review Area 30: SW 1/4 Section 6 and SW 1/4 Section 5, Township 15 South, Range 13 East, Mount Diablo Meridian, Latitude 36.65322° North, Longitude 120.58534° West, in Fresno County, California.
31. Review Area 31: SW 1/4 Section 5, Township 15 South, Range 13 East, Mount Diablo Meridian, Latitude 36.65517° North, Longitude 120.57795° West, in Fresno County, California.